

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA SERVICE EMPLOYEES
HEALTH & WELFARE TRUST FUND, *et*
al.,

Plaintiffs,

v.

COMMAND SECURITY CORPORATION,
Defendant.

MARLENE HERRERA, *et al.*,

Plaintiffs,

v.

COMMAND SECURITY CORP.,
Defendant.

No. C-12-1079 EMC

RELATED TO

No. C-12-4032 EMC

ORDER TO SHOW CAUSE

The above-referenced cases are related cases. Case No. C-12-1079 EMC shall hereinafter be referred to as the ERISA Case. Case No. C-12-4032 EMC shall hereinafter be referred to as the RLA (Railway Labor Act) Case.

Previously, the Court denied Defendant's motion to transfer venue in the ERISA Case. *See* ERISA Case (Docket No. 38) (order). At the time that the Court denied the motion, the RLA Case had not yet been filed. *See* RLA case (Docket No. 1) (complaint). After the RLA Case was filed,

1 the RLA Plaintiffs moved to have their case related to the ERISA Case. The Court granted the
2 motion in spite of Defendant's opposition. *See* ERISA Case (Docket No. 46) (order).


3 Defendant then moved in the RLA Case for a transfer of venue to the Central District of
4 California. The Court held a hearing on that motion on November 30, 2012. At the hearing, the
5 Court indicated that its inclination was to transfer the RLA Case to the Central District. However, if
6 the RLA Case were to be transferred, then arguably the ERISA Case should be transferred as well
7 given their relatedness, despite the Court's prior order denying transfer (which, as noted above, was
8 made at a time when the RLA Case was not yet filed). *Cf. United States v. Smith*, 389 F.3d 944, 949
9 (9th Cir. 2004) (holding that law-of-the-case doctrine does not bar a court from reconsidering its
10 own order provided that it has not been divested of jurisdiction over that order). Because the Court
11 is, in essence, *sua sponte* reconsidering its order denying transfer in the ERISA case, it shall give the
12 ERISA Plaintiffs an opportunity to comment on whether a transfer of their case is now appropriate
13 given the changed circumstances.

14 Accordingly, the Court hereby issues this order to show cause. The ERISA Plaintiffs are
15 ordered to show cause as to why their case should not be transferred to the Central District of
16 California. The ERISA Plaintiffs shall have until December 10, 2012 to file their response to this
17 order to show cause. Defendant shall then have until December 17, 2012 to file a brief in response
18 to the ERISA Plaintiffs' brief.

19 The hearing on Defendant's motion for partial summary judgment in the ERISA case is
20 temporarily **VACATED** until after the Court revisits the issue of transfer.

21
22 IT IS SO ORDERED.

23
24 Dated: November 30, 2012

25 
26 EDWARD M. CHEN
27 United States District Judge
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